IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

Habeas Corpus Petition No.1010 of 2007

Saravanan .. Petitioner

Vs

1. State of Tamilnadu
   rep. by its Secretary to Government
   Prohibition and Excise Department
   Chennai 600 009.

2. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai-600008. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Habeas Corpus calling for the records relating to the petitioner's detention order under the Tamil Nadu Act 14 of 1982 made in Ref.No.201/2007 BDFGISSV/2007 dated 14.5.2007 on the file of the 2nd respondent herein and quash the same and consequently to direct the respondents to produce the body of the detenue Mr.Saravanan, S/o.Muthulingam who has been confined in Central Prison, Puzhal Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.G.Natarajan
For Respondents : Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner calls in question legality of the order of detention 14.5.2007 passed by the second respondent ordering his

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detention under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum-Grabbers and Video Pirates Act, 1982 (in short "the Act") branding him as a "Goonda".

2. According to the detaining authority, viz., the second respondent, the ground case is said to have taken place on 17.4.2007 at about 4.30 p.m. On receipt of reliable information, in respect of Crime No.832 of 2007 on the file of J3 Guindy Police Station for the offences punishable under Sections 147, 148, 341, 307 and 506(ii) IPC, the police personnel surrounded the detenu and one Antony Raj, Vinoth Kumar and Vijay on Guindy Race Course Road near Guindy Railway station bus stop, who threatened them at knife point by uttering filthy words. When Antony Raj attempted to cut one Sivakumar, Sub Inspector of Police, he warded off the attack with his left hand. However, he sustained a bleeding injury on his left hand. Vijay picked up soda water bottles and hurled the same against the police personnel. The bottles fell on the road side broken into pieces and the broken pieces scattered all over the road side. The public who were at the spot noticing the atrocious activities ran for safer places apprehending danger to their lives. The normal traffic in that area was totally dislocated. By their action, the detenu and others created panic. With the help of public, the police personnel arrested the detenu and others and remanded them to judicial custody. In this regard, a case was registered in Crime No.865/2007 for the offences punishable under Sections 332, 336, 427, 307 and 506(ii) IPC.

3. The second respondent, taking note of the above case as a ground case and finding that there are two adverse cases pending against the detenu in Crime No.1111 of 2002 on the file of J1 Saidapet Police for the offences punishable under Section 302 I.P.C. and Crime No.832 of 2007 on the file of J3 Guindy Police Station for the offences punishable under Sections 147, 148, 341 and 506(ii) I.P.C. and having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

4. The learned counsel for the petitioner challenges the impugned order of detention dated 14.5.2007 on the main ground of defective translation between the English and Tamil versions found at page Nos.227 and 229, which is a bail application filed by the co-accused. He submits that in the English version of the bail application, the Crime Number was mentioned as 865 of 2007, whereas in the translated Tamil version, it was mentioned as 186 of 2007. According to the learned counsel, in view of the above defective translation, the detenu was not in a position to make an effective

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representation and hence the order of detention vitiates.

5. Communicate is a strong word. It requires that sufficient knowledge of the basic facts consisting the grounds should be imparted effectively and fully to the detenu in writing in a language which he understands, so as to enable the detenu to make a purposeful and effective representation. Where the grounds are not properly translated, it would tantamount to not serving the grounds to the detenu and would thus vitiate the detention ex facie.

6. In the instant case, as rightly pointed out by the learned counsel for the petitioner, a perusal of the materials placed before us would disclose that there is a defective translation in the bail application furnished to the detenu in the Tamil version. Even though the detaining authority had mentioned the crime number of the ground case in the detention order and in the English version of the bail application furnished to the detenu as 865 of 2007, in the translated Tamil version, it was mentioned as 186 of 2007. Failure to furnish the properly translated version of the bail application would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order of detention. Hence, the order of detention is vitiated.

Accordingly, the order of detention dated 14.5.2007 is set aside and the habeas corpus petition is allowed. The detenu Saravanan is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ATR

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To:

1. The Secretary to Government
   Prohibition and Excise Department
   Government of Tamilnadu
   Fort St. George, Chennai-9.

2. The Commissioner of Police,
   Greater Chennai
   Egmore, Chennai 600008.

3. The Superintendent,
   Central Prison, Chennai.

4. The Public Prosecutor,
   High Court, Madras.

5.The Joint Secretary to Govt.of Tamil Nadu,
Public (Law and Order) Dept.,
Fort St. George, Chennai-9.

+1cc to Mr.G.Natarajan, Advocate Sr 64881

NG (CO)
km/6.11.

H.C.P.No.1010 of 2007

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